

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

KEVIN D. ANTHONY,

*Plaintiff,*

v.

UNITED STATES OF AMERICA

*Defendant.*

CASE NO. 3:19-cv-05337-BJR

ORDER GRANTING PLAINTIFF’S  
MOTION FOR LEAVE TO AMEND  
COMPLAINT FOR DAMAGES UNDER  
THE FEDERAL TORT CLAIMS ACT

Before the Court is Plaintiff Kevin D. Anthony’s Motion for Leave to Amend Complaint. Dkt. Nos. 65 (Sealed), 66 (Redacted) (“Mot.”). The Court recounted the facts of this case in its recent Order Granting in Part and Denying in Part the United States’ Motion for Summary Judgment and Motion to Dismiss for Lack of Subject Matter Jurisdiction. Dkt. Nos. 63, 64 (“November 2 Order”).

The Court granted the United States’ Motion for Summary Judgment on Plaintiff’s Medical Negligence claim on the grounds that Plaintiff failed to present medical expert testimony necessary to establish the standard of care for his claim. *See* November 2 Order at 22. The Court did so, however, without prejudice and granted Plaintiff leave to file the currently pending motion with the expectation that Plaintiff would cure this deficiency. *Id.* at 26–27. Plaintiff now represents that he has retained the necessary experts. Dkt. No. 70 at 5. While the Court notes the United


1 States' objection that granting leave to amend will cause delays in bringing this case to trial, the  
2 Court is also cognizant of the "strong policy underlying the Federal Rules of Civil Procedure  
3 favoring decisions on the merits." *Eitel v. McCool*, 782 F.2d 1470, 1472 (9th Cir. 1986). As such,  
4 the Court hereby GRANTS Plaintiff's Motion. Plaintiff shall file his Amended Complaint no later  
5 than within five (5) days of this Order.

6 The Court notes that Plaintiff has included a reservation of rights section in his proposed  
7 Amended Complaint purporting to "reserve[] the right to amend this Complaint based on what he  
8 learns during the course of discovery in this case." Mot. at 37. The Court finds that given the  
9 leave to amend granted herein, Plaintiff has had sufficient opportunity to amend his complaint and  
10 the Court will *not* entertain another motion for leave to amend.

12 As Plaintiff's filing of his Amended Complaint and retaining of experts will require  
13 additional discovery, the Court hereby ORDERS the parties to meet and confer in order to propose  
14 a new case schedule including deadlines for expert disclosure, depositions, motions in limine, and  
15 a joint pretrial statement and new dates for a pretrial conference and trial. This Order, however,  
16 reopens discovery for the limited purpose of disclosing and examining Plaintiff's newly retained  
17 experts and for no other purpose. The parties shall file a joint statement proposing their deadlines  
18 within fourteen (14) days of this Order.

19  
20 SO ORDERED.

21 DATED this 23rd day of December, 2020.

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23   
24 BARBARA J. ROTHSTEIN  
25 UNITED STATES DISTRICT JUDGE